

## **II. Remarks**

### **A. Status of the Claims**

Claims 1-37 are pending in this application. Claims 1-16, 32 and 33 are rejected. Claims 17-31 are withdrawn from consideration. New claims 34 to 37 have been added to more particularly point out the invention. Support for new claims 34 to 37 can be found in the specification as originally filed on page 17, lines 6-21, in Figures 5 and 6, as well as in original claims 9 and 10.

Claims 1, 2, 5, 14 and 33 have been amended to more particularly claim the invention. Support for these amendments are found in the specification at page 1, lines 7-17; page 10, lines 18 to page 11, line 1; and in Figures 1-3, 7 and 8.

Claim 1 has been amended to more distinctly claim the position of the collar on the first sample processing device.

Claims 2, 5 and 33 have been amended to more clearly claim the processing devices.

Claim 14 has been amended to more distinctly claim the structure of the base and the collar.

Applicants assert that no new matter has been added to the claims by these amendments.

### **B. Restriction Requirement**

Pursuant to a telephonic conversation with the Examiner on July 11, 2007 for a restriction, whereby Applicants provisionally elected group I, claims 1-16, 32 and 33, without traverse, Applicants hereby affirm this election.

### **C. 35 U.S.C. §102 Rejections**

1. Claims 1-8, 11-16, 32 and 33 are rejected under 35 U.S.C. §102(b) as allegedly anticipated by U.S. Pat. No. 6,159,368 to Moring et al. (hereinafter "Moring"). Applicants respectfully traverse.

2. Claims 1-3, 5-8, 11-16, 32 and 33 are rejected under 35 U.S.C. §102(b) as allegedly anticipated by U.S. Pat. No. 6,054,100 to Stanchfield et al. (hereinafter "Stanchfield"). Applicants respectfully traverse.

3. Claims 1-9, 11-16, 32 and 33 are rejected under 35 U.S.C. §102(e) as allegedly anticipated by U.S. Pat. No. 6,592,826 to Bloecker et al. (hereinafter "Bloecker"). Applicants respectfully traverse.

The standard for anticipation under 35 U.S.C. § 102 requires that each and every element as set forth in the claim be found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir.1987). "The identical invention must be shown in as complete detail as is contained in the...claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989).

Amended claim 1 recites in part:

"...a second sample processing device stacked below said first sample processing device to form an integral stacked unit...said stacked unit positioned between said collar and said base..." (emphasis added)

Moring teaches a microfiltration system comprising a frame (38), that the Office Action alleges to be equivalent to the claimed collar, positioned between the first sample processing device (10) and the second sample processing device (24), see Figures 3 and 4.

Stanchfield teaches a multi-well synthesis and filtration apparatus comprising a collar (104) positioned between the first sample processing device (12) and the second sample processing device (24), see Figure 13.

Bloecker teaches a vacuum system comprising in part, a collar (42) positioned between the first sample processing device (F1) and the second sample processing device (F2), see Figures 4-8. Applicants respectfully contend that Bloecker's cover (30), depicted in Figures 4-8, is not a collar as asserted in the Office Action, but is an actual cover meant to cover or completely enclose any processing located underneath it.

Applicants respectfully contend that neither Moring, Stanchfield, nor Bloecker teach a disposable manifold comprising an integral stacked unit, comprising a second sample processing device stacked below a first sample processing device, positioned between the collar and the base as claimed. Accordingly, Applicants request the withdraw of this rejection.

Amended claim 14 recites in part:

“...a base comprising an outer peripheral flange and a side wall which together form a peripheral groove, and a portion of a gasket contacts a slot formed in the collar, and the collar comprises a skirt formed along a bottom periphery of a lateral wall such that the skirt positions over a peripheral portion of the base...”

Applicants respectfully contend that neither Moring, Stanchfield, nor Bloecker teach a disposable manifold comprising these elements. Accordingly, Applicants request the withdraw of this rejection.

**D. 35 U.S.C. §103 Rejection**

Claims 4, 32 and 33 are rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over U.S. Patent No. 6,159,368 Moring et al. (hereinafter, “Moring”), or U.S. Pat. No. 6,054,100 to Stanchfield et al. (hereinafter “Stanchfield”), or U.S. Pat. No. 6,592,826 to Bloecker et al. (hereinafter “Bloecker”) in view of U.S. Patent No. 5,498,545 to Vestal (hereinafter, “Vestal”). Applicants respectfully traverse the rejections.

The Office Action admits that Moring or Stanchfield or Bloecker teach every element of the claims, except for teaching a MALDI device as the second device. According to the Office Action, Vestal teaches a mass spectrometer system for analyzing multiple samples. The Office Action contends that Vestal discloses a system including a sample plate for holding samples on pins in wells of a plate. The Office Action concludes it would have been obvious to combine Vestal with the any of the devices of Moring or Stanchfield or Bloecker. The Office Action further states that one would use the plate of Vestal as the collection plate in order to load the collection plate for MALDI analysis of the samples.

### **The Prima Facie Case Requirement**

The Patent and Trademark Office (PTO) bears the burden of initially establishing a prima facie case of obviousness. MPEP §2142. MPEP §2143 provides the standard required to establish a prima facie case of obviousness. "First there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine what the reference teaches. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references combined) must teach or suggest all the claim limitations." The motivation to make the claimed invention and the reasonable expectation of success must both be found in the prior art, not the applicant's disclosure. *In re Vaeck*, 20 U.S.P.Q.2d 1438, 1442 (Fed. Cir. 1991). The references must be considered as a whole and must suggest the desirability, and thus the obviousness of making the combination. *Hodosh v. Block Drug Co., Inc.*, 229 U.S.P.Q. 182, 187 n.5 (Fed. Cir. 1986); MPEP § 2141. Applicants respectfully contend that the Office Action has not met its burden in establishing a prima facie case of obviousness.

Applicants respectfully contend that for the reasons set forth above, neither Moring nor Stanchfield nor Bloecker teach or suggest every claim limitation of claim 4, 32, or 33, and that Vestal does nothing to cure this defect. Accordingly, the claims are not prima facie obvious.

Moreover, Applicants note that the Office Action has not pointed to anything in the cited references that would motivate the skilled artisan to make the suggested combination. The references themselves must suggest the desirability of making the suggested combination. Applicants believe there is nothing of record that suggests such motivation. Accordingly, Applicants respectfully request withdrawal of the rejection.

#### **E. Obvious-Type Double Patenting Rejection**

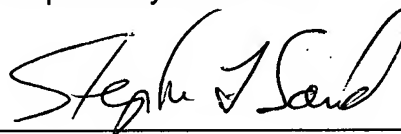
Claims 1-16, 32 and 33 are provisionally rejected on the ground of nonstatutory obvious type double patenting as allegedly being unpatentable over claims 1-4 and 6-15 of copending U.S. application serial no. 10/602,426.

While in no way admitting that the present claims are obvious over claims 1-16, 32 and 33 of U.S. application serial no. 10/602,426 as alleged in the Office Action, Applicants respectfully contend that upon allowance of the claims in the aforementioned patent application, Applicants will consider submitting a terminal disclaimer in compliance with 37 C.F.R. §1.321, if appropriate, which will obviate these rejections.

### III. CONCLUSION

Applicants believe that the above response is a complete response to the present Office Action, and in view of the foregoing remarks, respectfully request the reconsideration and withdrawal of the rejections, and the timely allowance of the pending claims. If however the Examiner believes that some requirement has been missed or not completely answered, the Examiner is invited to contact Applicants' attorney at the number below. Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account.

Respectfully submitted

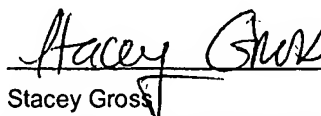


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The undersigned hereby certifies that this document is being placed in the United States mail with first-class postage attached, addressed to Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on January 24, 2008.

  
Stacey Gross